

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Owned Generation Fuel Procurement, Diablo Canyon Seismic Studies Balancing Account, and Other Activities for the Period January 1 through December 31, 2015 (U 39 E)

A.16-02-019
(Filed February 29, 2016)

**PANOCHÉ ENERGY CENTER LLC RESPONSE TO PACIFIC GAS AND ELECTRIC
COMPANY'S (U 39 E) MOTION TO AMEND SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER**

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Dated: July 22, 2016

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Pursuant to California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Rule 11.1(e), Panoche Energy Center LLC (“Panoche”) hereby responds to Pacific Gas and Electric Company’s (“PG&E”) *Motion to Amend Scoping Memo and Ruling of Assigned Commissioner*, filed July 7, 2016 (“Motion”). PG&E’s Motion seeks to amend the *Scoping Memo and Ruling of Assigned Commissioner*, filed June 16, 2016 (“Scoping Ruling”) to remove certain issues from the scope of its Energy Resource Recovery Account (“ERRA”) compliance review and to strike a reference to the ‘cost-effectiveness’ of PG&E’s contract and program management.¹

PG&E’s arguments are contrary to established Commission rules and to the standard of review that has been applied in previous ERRA proceedings. Panoche respectfully requests that the Commission deny PG&E’s Motion to amend the Scoping Ruling.

¹ Motion, pp. 1-2.

I. INTRODUCTION

PG&E seeks to exclude from this hearing certain issues related to its indirect greenhouse gas (“GHG”) costs that were added at the suggestion of ORA.² PG&E additionally seeks to strike the following sentence from the scoping ruling: “It is essential that a compliance review include a determination of whether the utility operated and managed their programs in the most cost-effective manner.”³ These issues, however, and more specifically this latter sentence, are necessary components of an Energy Resource Recovery Account (“ERRA”) compliance review.

ERRA procedures were established in Commission decision D.02-10-062.⁴ Under ERRA, electric utilities are required to submit a forecasted procurement plan for approval by the Commission. Utilities subsequently file a “compliance” application wherein the Commission determines whether the utility complied with and prudently managed the contracts, practices, and related expenses that were previously approved. Thus, while ERRA procedures are intended to “[e]liminate the need for after-the-fact reasonableness reviews” of a utility’s procurement plan, a compliance review is still necessary “to verify and ensure that each contract was administered in accordance with [its terms.]”⁵ The utility must also show that it complied with other Commission standards, such as Standard of Conduct 4 and the “reasonable manager” standard.⁶ If PG&E does not meet this burden of proof, it may be disallowed from recovering certain costs.

² *Id.*

³ Motion, pp. 1-2; Scoping Ruling p. 4.

⁴ See D.02-10-062, *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*, dated October 24, 2002 (“D.02-10-062”).

⁵ D.16-04-006, *Application of Pacific Gas and Electric Company for Compliance Review of Utility Owned Generation Operations, Electric Energy Resource Recovery Account Entries, Contract Administration, Economic Dispatch of Electric Resources, Utility Retained Generation Fuel Procurement, and Other Activities for the Period January 1 through December 31, 2012*, dated April 7 2016 (“D.16-04-006”), p. 3.

⁶ D.16-04-006, pp. 11-12.

II. ARGUMENT

A. Panoche Supports ORA and the Commissioner's Finding that Indirect Costs Should be Included in this Proceeding.

Panoche supports ORA and the Commissioner's conclusion that indirect GHG costs should be included in the scope of this compliance proceeding. Utilities are required to return all revenues from GHG allowances to their customers.⁷ Utilities must annually forecast the allowance revenues that ratepayers will receive, and the methodologies used to arrive at such calculations must be found reasonable.⁸ The methodologies must also be found compliant with Commission precedent, applicable ARB regulations, the utility's own ERRAs.⁹ A review for such 'compliance' rightfully belongs in this Proceeding.

PG&E argues that because indirect costs are estimates calculated for accounting and regulatory purposes, their consideration in this proceeding is unnecessary and would "result in confusion."¹⁰ Such a conclusion ignores the fact that PG&E is still required to show that its methodologies for calculating all costs, including indirect GHG costs, are reasonable and consistent with prudent contract management.¹¹

Direct GHG costs are the costs a utility incurs by purchasing compliance allowances and offsets for its emissions under the cap-and-trade program.¹² Indirect GHG costs are estimates of the compliance costs associated with the amount of emissions for that power.¹³ These estimates are embedded costs that are not broken out as a separate line item in the price of wholesale electricity when purchased on the CAISO market.¹⁴ Such GHG costs, and indirect

⁷ Pub. Util. Code § 748.5; D.14-10-033, *In the Matter of the Application of Southern California Edison Company (U338E) for Approval of Greenhouse Gas Cap-and-Trade Program Cost and Revenue Allocation*, dated October 16, 2014 ("D.14-10-033"), p. 2.

⁸ D.14-10-033, p. 2.

⁹ D.14-10-033, p. 15.

¹⁰ Motion, p 7.

¹¹ D.14-10-033, p. 15.

¹² D.14-10-033, p. 5.

¹³ *Id.*

¹⁴ D.14-10-033, p. 15.

costs in particular, are intended to be used to pass on a carbon price signal and incentivize a decrease in energy consumption and GHG emissions.

Utilities are permitted to use proprietary modeling calculations to estimate their indirect GHG costs.¹⁵ Utilities are, however, required to “make the [indirect cost] estimations using a reasonable methodology that is consistent with D.12-12-033, the utility’s own ERRA or ECAC filing, and any applicable ARB cap-and-trade program rules.”¹⁶ Therefore, PG&E is required to show that its calculations are reasonable and consistent with its ERRA filings or any other applicable regulations. Utilities are prohibited from using their GHG allowances for their own benefit or compliance obligations; they are for the benefit of ratepayers alone and help to offset the increased electricity costs that result from GHG compliance.¹⁷ During an ERRA compliance proceeding, a utility’s practices and calculations may be reviewed to ensure that it complied with these obligations. Therefore, consideration of PG&E’s indirect costs is appropriate in this compliance proceeding.

B. Review for Cost-Effective Management of PG&E’s Contracts is a Necessary Component of the Least-Cost Dispatch Analysis.

PG&E claims the following sentence is misplaced and should be stricken from the Scoping Ruling: “It is essential that a compliance review include a determination of whether the utility operated and managed their programs in the most cost-effective manner.” PG&E argues that cost-effectiveness is “not the standard” in a compliance proceeding and that “determining whether or not a utility’s procurement was done in the ‘most cost-effective manner’ goes well beyond a compliance review.”¹⁸ This is not the case, particularly with regard to the Commission’s review of whether PG&E achieved least-cost dispatch, whereby the Commission determines whether “the most cost-effective mix of total resources” was used by the utility.¹⁹

¹⁵ D.14-10-033, p. 15.

¹⁶ D.14-10-033, p. 15 (emphasis added).

¹⁷ D.14-10-033, p. 5.

¹⁸ Motion, pp. 8-10.

¹⁹ D.02-12-074, *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for*

This is not the first time PG&E has tried to limit the scope of an ERRA compliance proceeding on the grounds that it should not be subjected “to an after-the-fat reasonableness review”, but its previous attempt was soundly rejected.²⁰ In A.13-02-023, PG&E moved to amend the scoping ruling on several issues related to least-cost dispatch.²¹ The Commission not only found that the items to which PG&E objected were “included verbatim in prior ERRA proceedings”, but further reasoned that “[r]eplacing the specific term ‘reasonable’ with a more vague term like ‘Commission requirements’ only invites future argument over what those ‘requirements’ may be.”²² The Commission denied PG&E’s motion with regard to these issues.²³

Here, PG&E’s request to remove “cost-effective” program management from the scope of the review is directly contrary to the requirements of the Commission’s review for least-cost dispatch. Since 2002, the Commission has required utilities to comply with Standard of Conduct No. 4, which defines least-cost dispatch.²⁴ Under this standard, utilities must “prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.”²⁵ Further explained, “[p]rudent contract administration includes ...dispatching dispatchable contracts when it is most economical to do so...[T]he utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs.”²⁶ A review for compliance with this standard is traditionally conducted in a utility’s ERRA compliance proceeding, where utilities bear the

Generation Procurement and Renewable Resource Development, dated December 19, 2002 (“D.02-12-074”), pp. 54, 77, Ordering ¶ 24 (emphasis added).

²⁰ A.13-02-023, *Scoping Memo and Ruling of Assigned Commissioner*, filed October 4, 2013 (“Scoping Ruling”), p. 6.

²¹ A.13-02-023, *Scoping Ruling*, p. 6.

²² *Id.*

²³ *Id.*

²⁴ D.02-12-074, pp. 53-56, 76-78, Ordering ¶¶ 24, 25.

²⁵ D.02-14-074, pp. 50, 53.

²⁶ D.02-12-074, pp. 54, 77, Ordering ¶ 24 (emphasis added).

burden of proving that they achieved least-cost dispatch when administering their resources.²⁷

Accordingly, a review as to whether PG&E achieved least-cost dispatch necessarily involves an economic, or “cost-effective”, review of PG&E’s use and management of its resources. Indeed, “[p]ursuant to earlier Commission decisions on ERRA compliance filings, PG&E is subject to possible disallowances if the Commission finds that it did not comply with [] least-cost dispatch requirements.”²⁸ PG&E’s claim that “cost-effectiveness” is not a relevant issue in this proceeding is directly contrary to this statutory mandate and Commission precedent.

A utility implements the least-cost standard by evaluating its dispatchable resources and assessing the daily market conditions at the time of dispatch into the daily, hourly and real-time markets. The utility is left to decide which resources under its control would be the most “economical to dispatch by comparing the variable operating cost of each dispatchable unit with the market price of power at the time of dispatch. If the variable operating cost is greater than the market price, the unit is not dispatched.”²⁹ However, as previously stated, the utility must conduct this analysis using “reasonable” calculations and methodologies.

In summary, while the Commission’s ERRA procedures are in intended to remove procurement issues from an “after-the-fact reasonableness review,” they do not remove consideration of whether PG&E acted reasonably with regard to its contract and program management of its approved resources. And, more specifically, PG&E’s contention that “cost-effectiveness” should not be considered in this proceeding is directly contrary to the required

²⁷ D.02-12-074, p. 76, Ordering ¶ 24(b).

²⁸ A.13-02-023, Scoping Ruling, p 10 (citing D.05-01-054, *Application of Southern California Edison Company (U 338-E) For Approval of its 2004 Revenue Requirement and Related Estimates Under the Energy Resource Recovery Account (ERRA); And For a Commission Finding that its Procurement-Related and Other Operations were Reasonable for the Record Period September 1, 2001 Through June 30, 2003*, dated January 27, 2005, p. 14).

²⁹ D.06-01-007, *Application of Southern California Edison Company (U 338-E) for a Commission Finding that its Procurement-Related and Other Operations for the Recorded Period January 1 Through December 31, 2004 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and other Regulatory Accounts; for Recovery of a Nuclear Unit Incentive Reward of \$12.6 million; and for Recovery of \$6.7 Million Recorded in the Electric Energy Transaction Administration Memorandum Account*, dated January 12, 2006, p. 4.

review for compliance with PG&E's least-cost dispatch obligation. A determination of whether PG&E utilized the most "cost-effective" mix of its total resources is in fact the standard of a compliance review under the standards of least-cost dispatch.

III. CONCLUSION

For the foregoing reasons, Panoche requests that the Commission deny PG&E's request to amend the Scoping Ruling.

Dated: July 22, 2016

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